

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

February 19, 2013

Lyle W. Cayce  
Clerk

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No. 12-10522  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ARRIAGA-MORALES,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:11-CR-293-1

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Before KING, CLEMENT, and HAYNES, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Jose Arriaga-Morales raises arguments that he concedes are foreclosed by *United States v. Newson*, 515 F.3d 374, 377-78 (5th Cir. 2008), which held that the district court may not award an additional one-level reduction under U.S. Sentencing Guidelines Manual § 3E1.1(b) absent a motion from the Government and that the Government may decline to move for the reduction based on the defendant's refusal to waive his right to appeal. Accordingly, the Government's motion for summary affirmance

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.